

## THE NINETEENTH AMENDMENT: THE CATALYST THAT OPENED COURTHOUSE DOORS FOR WOMEN ON THE FEDERAL BENCH

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I was incredibly honored and blessed to serve as a federal judge for nearly thirty-three years, first on the United States District Court for the Northern District of Illinois and next on the United States Court of Appeals for the Seventh Circuit. The 100th anniversary of the Nineteenth Amendment is especially meaningful to me because it not only opened the voting booth to women, it opened the courthouse doors for women to become federal judges.

No woman had served as a federal judge prior to the Nineteenth Amendment. Indeed, few women judges sat on any court before it was ratified. No woman had been elected judge before the Nineteenth Amendment passed, and there were certainly no Article III lifetime, presidentially appointed women federal judges.

The Nineteenth Amendment changed that. As Judge Florence E. Allen later reflected, “With the winning of the vote women gained the right . . . to assume their part in public and professional life.”<sup>1</sup> Allen embraced that right in full.

In 1906, thirteen years before the passage of the Nineteenth Amendment, Allen was the music critic for the Cleveland *Plain Dealer* and a teacher at a school for girls.<sup>2</sup> Never one to be idle, she also took graduate courses and obtained a Master of Arts degree in Political Science.<sup>3</sup> A professor asked her, “Why don’t you study law?”, which she said “came like

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<sup>†</sup> Of Counsel at Jones Day, where she leads its efforts to advance the rule of law in Africa. Her confirmation to the United States District Court for the Northern District of Illinois in 1985 made her the first woman of color to serve as a district judge in the three-state Seventh Circuit. In 1999, she became the first and only judge of color to sit on the United States Court of Appeals for the Seventh Circuit. She was president of the Federal Judges Association from 1999–2001 and received the Devitt Award, the federal judiciary’s highest honor, in 2010. She thanks Erin McGinley, Of Counsel at Jones Day and her former permanent law clerk, for her invaluable assistance with this article.

The views and opinions set forth herein are the personal views or opinions of the author; they do not necessarily reflect views or opinions of the law firm with which she is associated.

1. FLORENCE ELLINWOOD ALLEN, *TO DO JUSTLY* 150 (1965).
2. *See id.* at 22–23.
3. *Id.* at 23.

a revelation[.]”<sup>4</sup> That was the beginning of her dream to become a lawyer.

But her hometown law school did not admit women, so Allen attended the University of Chicago Law School.<sup>5</sup> She was then drawn to New York City by the opportunity to assist new immigrants with the New York League for Protection of Immigrants.<sup>6</sup> She decided to complete her last two years of law school at New York University School of Law.<sup>7</sup> Allen struggled to support herself during law school by lecturing on music at public schools and in libraries.<sup>8</sup> She was only able to rent a gown for commencement exercises because her sister sent her \$10.<sup>9</sup> It was at graduation that Allen learned, to her “amazement,” that she had graduated second in the 1913 NYU School of Law class.<sup>10</sup> Yet she received no offers from New York law firms.<sup>11</sup> So she went back home to Cleveland, where she made \$25 in her first month as a lawyer.<sup>12</sup> As she said, “I had no clients. And I had no money. But I had great hopes[.]”<sup>13</sup>

Allen also had great hopes and dreams that women would soon have the right to vote. In the decade before the Nineteenth Amendment was ratified, Allen spent countless hours fighting for women’s suffrage.<sup>14</sup> An amendment to the State Constitution of Ohio was proposed in 1910 that gave the full right to vote to women, and Ohio became a women’s suffrage battleground.<sup>15</sup> Allen helped form a Campus Suffrage Club at Western Reserve University and, while in law school, served as assistant secretary to the prominent suffragist Maud Wood Park.<sup>16</sup> Park encouraged Allen to travel throughout Ohio and to organize local counties.<sup>17</sup>

Travel and organize Allen did, lining up a schedule of ninety-two speeches in eighty-eight Ohio counties.<sup>18</sup> She took advantage of every opportunity to speak, including in a circus tent and before and after a band

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4. *Id.*

5. *Id.* at 23.

6. *Id.* at 24.

7. *Id.* at 25.

8. *Id.* at 25–26.

9. *Id.* at 28.

10. *Id.*

11. See Florence Ellinwood Allen, THE SUPREME COURT OF OHIO & THE OHIO JUDICIAL SYS., <https://www.supremecourt.ohio.gov/SCO/formerjustices/bios/allen.asp> [<https://perma.cc/Y8VK-RS3N>] (last visited Nov. 16, 2019).

12. *The Career of a Woman Judge*, CHRISTIAN SCI. MONITOR, Jan. 11, 1924, at 9.

13. *Spinster Breadwinner Hailed as Heroine by Woman Judge*, WASH. POST, Mar. 10, 1934, at 11.

14. See ALLEN, *supra* note 1, at 29–38.

15. See *id.* at 29–30.

16. See *id.* at 29, 31.

17. See *id.* at 32.

18. *Id.*

concert.<sup>19</sup> Allen also performed significant legal work on behalf of women's suffrage and displayed her fine advocacy skills when she convinced a train conductor to speed up a train so she could make it on time to an argument in the Supreme Court of Ohio.<sup>20</sup>

On August 18, 1920, the Nineteenth Amendment was ratified. Allen's friends in the Woman Suffrage Party encouraged her to run for a judgeship.<sup>21</sup> The primary had already been held, so she needed to get enough signatures to have her name placed on the ballot. Within two days, party members gathered 2,000 signatures.<sup>22</sup>

On November 6, 1920, in the first election in Ohio in which women could vote other than on local matters, and backed by all the Cleveland newspapers, Allen became the first woman elected to a court of general jurisdiction in the United States when she was elected to the Cuyahoga Court of Common Pleas.<sup>23</sup> Three years later, she became the first woman in the United States elected to a state's highest court when she was voted onto the Supreme Court of Ohio.<sup>24</sup> The people she met throughout Ohio as she campaigned for women's suffrage remembered her and even formed "Florence Allen Clubs" when she was running for Ohio Supreme Court justice.<sup>25</sup>

Allen's "firsts" did not stop there. In 1934, President Franklin D. Roosevelt appointed her to the United States Court of Appeals for the Sixth Circuit, making her the first woman Article III federal judge.<sup>26</sup> None of the other judges favored her appointment. One went to bed for two days when her appointment was announced.<sup>27</sup> She believed that her insistence on sitting for argument the day after a fall which required the removal of one and a half teeth and bandages across her face, along with her diligent work, led her male colleagues to respect her.<sup>28</sup> Later in her long and very distinguished career, she became the first woman to serve as Chief Judge of any federal district or appellate court and the first woman to serve on the United States Judicial Conference, the policy-making body of the federal judiciary.<sup>29</sup> She became

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19. *Id.* at 34.

20. *Id.* at 36.

21. *Id.* at 41.

22. *Id.* at 42.

23. *Id.* at 43–44.

24. *Id.* at 64, 70.

25. *See id.* at 67.

26. *Id.* at 94, 95.

27. *Id.* at 95.

28. *Id.* at 96–98.

29. *See Florence Ellinwood Allen, NAT'L WOMEN'S HALL OF FAME*, <https://www.womenofthehall.org/inductee/florence-ellinwood-allen> [https://perma.cc/T9RZ-TX4R]

my inspiration each time I appeared before the U.S. Judicial Conference as Chair of the Court Administration and Case Management Committee.

I am indebted to Florence Allen, who fought for women's suffrage and opened the door for me and 447 other women, out of a total of 3,734 appointed in history, to serve as lifetime-tenured federal judges.<sup>30</sup> Over fifty years ago, Allen wrote in her autobiography, "This battle for the rights of full citizenship is a matter of such ancient history that we are inclined to accept the privilege of the vote as if we had always had it, forgetting what we owe to the hard-working and courageous women who devoted their lives to this cause."<sup>31</sup> These words strike me as true regarding women on the bench as well.

On the 100th anniversary of the Nineteenth Amendment, it is my privilege to pay tribute to Allen and some of the many hard-working and courageous women in the federal judiciary who were "firsts" in their courts and who personally impacted my life. Although lesser known than iconic, groundbreaking Supreme Court Justices and my friends Sandra Day O'Connor, Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan, these other extraordinary, hardworking, and courageous women judges opened doors in federal courthouses around the country so that they were not so heavy for judges like me to walk through. I am so grateful for the role that each played in my life.

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(select "Personal Characteristics and Background" and search by "Female" and "Both" under gender) (last visited Nov. 25, 2019).

30. *Biographical Directory of Article III Federal Judges, 1789–Present*, FEDERAL JUDGES ASS'N, <https://www.fjc.gov/history/judges/search/advanced-search> [<https://perma.cc/6X57-SQ33>] (last visited Nov. 16, 2019).

31. ALLEN, *supra* note 1, at 38.

*“Women have within them . . . [the] power of working for something which they see not, something which they only hope and dream will come to pass.”*<sup>32</sup>—Florence Allen

Dreaming big. Many of the women judges who were “firsts” in their courts dreamed big dreams, even when they had few, if any, women role models. Judge Phyllis Kravitch, who was born in Savannah, Georgia, in 1920, was one of those dreamers. When she was growing up, most prominent white lawyers in Savannah would not accept a court appointment to defend an African American person in a criminal case.<sup>33</sup> But her father did.<sup>34</sup>

Aaron Kravitch believed “equality under the law meant there were no color lines.”<sup>35</sup> That meant he was usually the lawyer appointed in unpopular, highly publicized cases representing African Americans.<sup>36</sup> As a result, when she was twelve years old, Phyllis was the only girl in her scout troop not invited to a birthday party.<sup>37</sup>

In her words:

[M]y father’s way of consoling me, because I was quite upset about it, was to explain the Constitution and the Sixth Amendment, and finally realizing it wasn’t getting through to me, he said, “When you’re a little older, you’ll understand that there are more important things in life than birthday parties.” I didn’t understand it at the time, but as time went on by, I knew exactly what he meant.<sup>38</sup>

Inspired by her father, Phyllis began to dream of becoming an attorney herself. But when she was a teenager watching one of his cases, her father pulled her aside and said, “The judge wants you to leave. He doesn’t think this is any place for a young woman.”<sup>39</sup> Undeterred, Phyllis found one of her father’s African American employees, who took her to the segregated

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32. *Id.* at 155.

33. Transcript of Interview by Anne Emanuel with Phyllis A. Kravitch (July 19, 2013) at 13 [hereinafter Kravitch (July 19, 2013)], [https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578\\_KravitchP\\_Transcript.pdf](https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578_KravitchP_Transcript.pdf) [https://perma.cc/42Z8-APEK].

34. Transcript of Interview by Anne Emanuel with Phyllis A. Kravitch (July 17, 2013) at 7 [hereinafter Kravitch (July 17, 2013)], [https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578\\_KravitchP\\_Transcript.pdf](https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578_KravitchP_Transcript.pdf) [https://perma.cc/42Z8-APEK].

35. Kravitch (July 19, 2013), *supra* note 33, at 13.

36. *See id.*

37. *See* Kravitch (July 17, 2013), *supra* note 34, at 1.

38. Kravitch (July 19, 2013), *supra* note 33, at 15.

39. *Id.* at 10.

balcony where African Americans were allowed to watch court.<sup>40</sup> There she hid and watched her father's cases.<sup>41</sup> She ultimately became one of the first woman trial lawyers in the South.<sup>42</sup> She was the first woman in the South, and third nationwide, to become a federal appellate judge when she was appointed by President Jimmy Carter to the United States Court of Appeals for the Fifth Circuit in 1979. She dreamed big.

Judge Constance Baker Motley, who was born in 1921, also dreamed big. She decided she wanted to be a lawyer at fifteen years old. No one thought this was a good idea. Her mother wanted her to be a hairdresser.<sup>43</sup> Connie later reflected:

With very little opportunity for employment or advancement by blacks or women, there were those who actively discouraged me from thinking about the law. For some reason, this lack of encouragement never deterred me. In fact, I think the effect was just the opposite. I was the kind of person who would not be put down. I rejected the notion that my race or sex would bar my success in life.<sup>44</sup>

She went on to become the first woman lawyer at the NAACP Legal Defense Fund, the first African American woman to argue in the United States Supreme Court, where she won nine out of ten cases outright, and the tenth when the Supreme Court later reversed itself,<sup>45</sup> the first African American woman to serve in the New York State Senate, and the first woman Manhattan Borough president.<sup>46</sup> Her firsts did not stop there. In 1961, she became the first woman of color appointed to any federal district court in the country, and the fourth woman Article III judge when President Lyndon B. Johnson selected her to serve on the United States District Court for the Southern District of New York.<sup>47</sup> She was also the first woman of color Chief

40. *See id.*

41. *See id.*

42. Kravitch (July 17, 2013), *supra* note 34, at 6–8.

43. CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW* 41 (1998).

44. *Id.* at 41–42.

45. *See* *Batson v. Kentucky*, 476 U.S. 79, 82 (1986) (ruling that peremptory challenges may not be used to excuse jurors solely because of their race and criticizing *Swain v. Alabama*, 380 U.S. 202 (1965)); Meg Penrose, *The Way Pavers: Eleven Supreme Court-Worthy Women*, HARV. J.L. & GENDER ONLINE, <https://harvardjlg.com/2018/07/the-way-pavers-eleven-supreme-court-worthy-women> [https://perma.cc/PZ57-X2WW]; Brian Gene Hoffman, *Constance Baker Motley (1921–2005)*, BLACKPAST (Mar. 12, 2018), <https://www.blackpast.org/african-american-history/people-african-american-history/motley-constance-baker-1921-2005> [https://perma.cc/P8S9-EKSH]; *Motley, Constance Baker, 1921–2005*, CIVIL RIGHTS DIGITAL LIBRARY, [http://crdl.usg.edu/people/m/motley\\_constance\\_baker\\_1921\\_2005/?Welcome](http://crdl.usg.edu/people/m/motley_constance_baker_1921_2005/?Welcome) [https://perma.cc/VCR6-85GU] (last visited Nov. 16, 2019).

46. *See* MOTLEY, *supra* note 43, at 206, 210.

47. *See id.* at 214.

Judge.<sup>48</sup> She made her big dreams come true and opened the doors for the fifty-nine African American women, thirty-one Latina women, sixteen Asian American women, and one Native American woman Article III judges who followed.<sup>49</sup>

*"I never totaled [the number of decisions I wrote]. . . . I never had time—whenever I finished with one group of cases, I just went right to the next batch."*<sup>50</sup>—Florence Allen

Working hard. That was the only way Judge Patricia Wald knew how to work. Her father left her family when she was two years old, and she was raised by her mother and other relatives.<sup>51</sup> All worked at a local factory, including Pat who greased ball bearings on the night shift during summers as a teenager.<sup>52</sup> She earned a scholarship to college and a fellowship to law school, where she graduated with excellent credentials equivalent to those of a male Yale Law School classmate.<sup>53</sup> When a law firm offered him a higher salary, she turned down the firm's offer and instead clerked for Judge Jerome Frank on the United States Court of Appeals for the Second Circuit.<sup>54</sup> Her tireless and meticulous work during her clerkship yielded a one-sentence letter of recommendation. But what a sentence it was: "She is the best law clerk that I ever had. Signed, Jerry Frank."<sup>55</sup>

Pat worked at a law firm and then left to spend ten years focusing on her family and five young children. Working into the early morning hours while her children slept, she dedicated herself to such projects as a book on law and poverty and another book with a Yale classmate that helped spur the Bail Reform Act of 1966.<sup>56</sup> She went back to work full time when her

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48. Judge Constance Baker Motley (1921–2005), EQUAL JUSTICE SOC'Y, <https://equaljusticesociety.org/aboutus/motley> [<https://perma.cc/Y9GA-X34B>] (last visited Nov. 16, 2019).

49. *Biographical Directory of Article III Federal Judges, 1789–Present*, *supra* note 30.

50. Mary Ellen Gale, *Her Honor*, HARVARD CRIMSON (Nov. 10, 1960), <https://www.thecrimson.com/article/1960/11/10/her-honor-ptoday-just-two-days> [<https://perma.cc/U8YX-DZKM>].

51. Transcript of Interview by Judith A. Winston with Patricia M. Wald, Tape 1 (June 5, 2006), at 2, [https://stacks.stanford.edu/file/zj195yf5579/WaldP\\_Transcript.pdf](https://stacks.stanford.edu/file/zj195yf5579/WaldP_Transcript.pdf) [<https://perma.cc/39EN-MHZM>].

52. *Id.* at 5–6, 21.

53. *Id.* at 10, 23, 33.

54. *Id.* at 33.

55. Transcript of Interview by Judith A. Winston with Patricia M. Wald, Tapes 2A & 2B (June 19, 2006) at 2, [https://stacks.stanford.edu/file/zj195yf5579/WaldP\\_Transcript.pdf](https://stacks.stanford.edu/file/zj195yf5579/WaldP_Transcript.pdf) [<https://perma.cc/39EN-MHZM>].

56. *See id.* at 16–17.

youngest was in kindergarten.<sup>57</sup> In 1979, President Jimmy Carter made her the first woman appointed to the District of Columbia, and she later became its first woman Chief Judge.<sup>58</sup> She was a force on the bench, authoring over 800 opinions. She was also devoted to public service throughout her life.<sup>59</sup> Her service to the nation and to the world continued well after she left the federal bench. I was fortunate to teach with her, including at the International Criminal Tribunal for Rwanda, and to see firsthand her gifts as a teacher, the depth of her character, and the impact she had. Pat never stopped working to improve the world around her.

Judge Diana Murphy, appointed in 1994 by President William Clinton to be the first woman on the United States Court of Appeals for the Eighth Circuit, and the only woman there for nineteen years,<sup>60</sup> was another tireless worker even in the face of physical adversity. Diana also did not take a traditional path to the district<sup>61</sup> and appellate bench. She went to law school after raising two sons and graduated from law school twenty years after her college graduation.

Although one would not know it, Diana's rheumatoid arthritis increased in intensity during the course of her career. In 1999, while she was a busy judge on the Eighth Circuit, Diana became the first woman to take on another enormous responsibility—chair of the United States Sentencing Commission,<sup>62</sup> which establishes the federal sentencing guidelines and collects, analyzes, and distributes information on federal sentencing practices. There she fought for, and laid the foundation for changing, the unjustified and unfair 100-to-1 crack versus powder cocaine sentencing disparity which adversely affected so many communities of color.<sup>63</sup>

Judge Jonathan Lebedoff reflected:

In all the many years of our friendship, I never heard Diana complain to me

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57. *See id.* at 15, 20.

58. Transcript of Interview by Judith A. Winston with Patricia M. Wald, Tape 3A & B (June 19, 2006) at 5, 10–11, [https://stacks.stanford.edu/file/zj195yf5579/WaldP\\_Transcript.pdf](https://stacks.stanford.edu/file/zj195yf5579/WaldP_Transcript.pdf) [<https://perma.cc/39EN-MHZM>].

59. *Id.* at 10.

60. *See* Beth Forsythe, *A Clerk's Tribute to Eighth Circuit Judge Diana E. Murphy*, BAR ASS'N OF THE U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT NEWSLETTER, Winter 2018, at 3, <http://www.eighthcircuitbar.com/resources/Documents/newsletters/Winter2018Newsletter.pdf> [<https://perma.cc/X96X-A9LX>].

61. President Jimmy Carter nominated Diana Murphy to the United States District Court for the District of Minnesota, and she received her commission in 1980.

62. *See id.* at 18.

63. *See* Press Release, U.S. Sentencing Comm'n, Sentencing Comm'n Reports on Cocaine Sentencing Policy (May 22, 2002), <https://www.ussc.gov/about/news/press-releases/may-22-2002> [<https://perma.cc/9HAQ-QRLY>]; *Dorsey v. United States* (567 U.S. 260, 269) (2012) (noting Fair Sentencing Act of 2010 reduced 100-to-1 crack to powder cocaine crack ratio to 18-to-1).



or to anyone else about her physical difficulties. Her strength of character would not allow her to lessen her legal or community service, at a cost that she kept to herself. . . . Her responsibilities as head of the Sentencing Commission required frequent flights to Washington. She typically handled both duties in a brilliant fashion, without complaint and at a physical cost known only to herself. Diana faced a physical challenge that would have left most men and women housebound, and defeated it by ignoring it.<sup>64</sup>

Diana Murphy, like many women, worked hard, no matter how difficult the challenge.

*“None of the judges favored my appointment.”*<sup>65</sup> —  
Florence Allen

Don’t give up. In 1962, the year after Consuelo Marshall graduated from law school, the Los Angeles City Attorney’s Office had never hired a woman attorney.<sup>66</sup> That did not stop Connie from applying. Her interviewer made it clear that the office did not hire women attorneys, and he took her to see the City Attorney himself to explain the policy. The City Attorney explained that all deputy attorneys began in the criminal section, and attorneys there might need to use words that could be embarrassing to women. Connie was not deterred. The City Attorney reconsidered, and she became the first female attorney in the office. She later said, “There was no way I wouldn’t have taken the job because of the challenge.”<sup>67</sup>

She met another young attorney there named Johnnie L. Cochran, Jr. and went to work with him when he went into private practice. After distinguished service on the state court bench, she was appointed to the United States District Court for the Central District of California in 1980 by President Jimmy Carter.<sup>68</sup> She was the first woman of color appointed in the West<sup>69</sup> and the first woman Chief Judge of color west of the Mississippi.<sup>70</sup> As Chair of the Ninth Circuit Pacific Island Committee, she has helped

64. Jonathan Lebedoff, *Remembrance of Judge Diana E. Murphy*, 103 MINN. L. REV. 17, 18 (2018).

65. ALLEN, *supra* note 1, at 95.

66. See Susan McRae, *Judicial Profile, Hon. Consuelo B. Marshall, U.S. District Court for the Central District of California*, FEDERAL LAWYER, May 2003, at 18, [http://www.fedbar.org/PDFs/Past-Judicial-Profiles/Ninth-Circuit\\_1/Marshall-Hon-Consuelo.aspx](http://www.fedbar.org/PDFs/Past-Judicial-Profiles/Ninth-Circuit_1/Marshall-Hon-Consuelo.aspx) [<https://perma.cc/7TG9-YK6X>].

67. *Id.*

68. *Id.* at 20.

69. Brenda Harbin-Forte, *African-American Women on the California Bench: A History*, DAILY J. (May 26, 2019), <https://www.dailyjournal.com/articles/351628-african-american-women-on-the-california-bench-a-history> [<https://perma.cc/6YCS-9YY5>].

70. *The Honorable Consuelo B. Marshall*, EQUAL JUSTICE WORKS, <https://www.equaljusticeworks.org/about/bios/the-honorable-consuelo-b-marshall> [<https://perma.cc/J6GK-4MF8>] (last visited Nov. 26, 2019).

transform the courts in republics and U.S. territories in the Pacific. Like she always has for her beloved law clerk family, Connie provided me with wise counsel and guidance through the years. Her calm presence, dedication, patience, and good humor in the face of any challenge are legendary.

Amalya Kearsse was elected Order of the Coif at the University of Michigan Law School and was an editor of the Law Review. She wanted to work at a Wall Street law firm after graduation, later reflecting, “I felt that Wall Street was the big time, and I wanted to see if I could make it on Wall Street.”<sup>71</sup> But there were very few women lawyers in Wall Street firms at the time, and few if any African American lawyers. One male lawyer who interviewed her looked at her resume and said, “I wish you were a man.”<sup>72</sup> Another said his firm had no women lawyers and had only recently started employing women secretaries, so he could not imagine what his partners would say if he told them a woman wanted to be a lawyer in their firm.<sup>73</sup>

Amalya, whose mother was the only woman in her medical school class, persisted. She received an offer and joined the Wall Street firm of Hughes, Hubbard & Reed.<sup>74</sup> She worked nonstop, remarking, “Literally, there is no time for anything else.”<sup>75</sup> After only seven years, she became a partner at the firm.<sup>76</sup> One of her colleagues commented, “She became a partner here not because she is a woman, not because she is black, but because she is just so damned good—no question about it.”<sup>77</sup> Four years later, she was named head of the firm’s hiring committee.<sup>78</sup>

In 1979, at the age of forty-one, President Jimmy Carter nominated her to the United States Court of Appeals for the Second Circuit, the court on which she still sits. She became the first woman of color appointed to a federal appellate court. The night she was sworn in, Amalya and her mother were the first to arrive for a celebratory dinner. A guest asked the restaurant maître d’ whether Judge Kearsse and Dr. Kearsse had arrived, to which the maître d’ replied, “No, just two ladies.”<sup>79</sup> Although the maître d’ did not recognize her, I was well aware of Amalya’s brilliance and extraordinary

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71. *Amalya Kearsse*, ACADEMY OF ACHIEVEMENT BLACK HISTORY MONTH (July 6, 1984) (downloaded using Apple Podcasts).

72. *Id.*

73. *Id.*

74. See Tom Goldstein, *Amalya Lyle Kearsse*, N.Y. TIMES, June 25, 1979, at B2, <https://www.nytimes.com/1979/06/25/archives/amalya-lyle-kearse-woman-in-the-news.html> [<https://perma.cc/L7WZ-UR9U>].

75. *Id.*

76. See *id.*

77. *Id.*

78. See *id.*

79. *Amalya Kearsse*, *supra* note 71.

achievements long before I was appointed to the Seventh Circuit and had the privilege of getting to know her. And Amalya's brilliance is not limited to the law. She is also a World Bridge Federation World Life Master and seven-time U.S. national champion.<sup>80</sup> This legal giant has been a tremendous role model of shining light.

*"[T]o do justly is one of the highest human endeavors."*<sup>81</sup>—Florence Allen

Standing up. In 1979, Judge Gabrielle McDonald became the first woman of color to be appointed to the federal bench in Texas and in the South.<sup>82</sup> Two years later, the Ku Klux Klan tried to disqualify her in a case where Vietnamese shrimpers sued the Klan for burning several shrimp boats.<sup>83</sup> Gaby received hate mail, including four one-way tickets to Africa.<sup>84</sup> Klan members attended the court hearings.<sup>85</sup> For the first time, a metal detector was installed in the courthouse.<sup>86</sup> Gaby stood her ground and would not recuse herself.<sup>87</sup> She told Klan members they were not entitled to a judge of their choosing, but to one who would be fair. And fair she was.

A few years later, Gaby refused to recuse herself after the City of Houston asserted that, as an African American woman, she was a member of the class that would benefit from the suit that alleged racial discrimination in employment, election practices, and provision for municipal services. She wrote: "If my race is enough to disqualify me from hearing this case, then I must disqualify myself as well from a substantial portion of cases on my docket. This circumstance would cripple my efforts to fulfill my oath as a

80. Joe Messa, *The Honorable Amalya Lyle Kears*, MESSA & ASSOCS., <https://www.messalaw.com/the-honorable-amalya-lyle-kearse-second-circuit-appeals-court-judge-and-world-class-bridge-player> [https://perma.cc/5LH9-FWUE] (last visited Dec. 10, 2019).

81. See ALLEN, *supra* note 1, at vii.

82. See *The Honorable Gabrielle Kirk McDonald*, HISTORYMAKERS, <https://www.thehistorymakers.org/biography/honorable-gabrielle-kirk-mcdonald> [https://perma.cc/9G2Z-CWAE] (last visited Nov. 26, 2019).

83. See Barbara Canetti, *Vietnamese Fishermen Confronted the Ku Klux Klan and Texas*, UNITED PRESS INT'L (May 11, 1981), <https://www.upi.com/Archives/1981/05/11/Vietnamese-fishermen-confronted-the-Ku-Klux-Klan-and-Texas/2090358401600> [https://perma.cc/J968-26H3].

84. See Steven J. Niven, *McDonald, Gabrielle Kirk*, in *AFRICAN AMERICAN LIVES* 578 (Henry Louis Gates, Jr. & Evelyn Brooks Higginbotham eds., 2004).

85. See Andrew Chin, *The KKK and Vietnamese Fishermen*, UNIV. OF N.C. SCH. OF LAW, <http://www.unclaw.com/chin/scholarship/fishermen.htm> [https://perma.cc/6ZRH-2UJZ] (last visited Nov. 26, 2019).

86. William Horne, *Judging Tadic: Former U.S. District Judge in Houston Answers State Department's Call*, CASE FILES COURT TV, <https://web.archive.org/web/20050112110546/http://www.courtTV.com/archive/casefiles/warcimes/reports/judge.html> [https://perma.cc/DB5K-BTUB].

87. See Canetti, *supra* note 83.

federal judge[.]”<sup>88</sup> Gabrielle McDonald, standing up. After leaving the federal bench, she became one of the first judges on the International Criminal Tribunal for the former Yugoslavia.<sup>89</sup> Pat Wald took her seat when Gaby stepped down in 1999, and Gaby later served on the Iran-United States Claims Tribunal.<sup>90</sup> Gaby was a role model for me as I was the first woman of color to serve as a district judge in the three-state Seventh Circuit. I vividly remember when she joined the Tribunal to advance the rule of law internationally, and that served as an inspiration to me in my efforts to advance the rule of law in Africa while I sat on the bench and in my current work.

Phyllis Kravitch also stood up. She was rejected from a Supreme Court clerkship and from every law firm to which she applied because she was a woman, so she returned to Savannah to practice with her father.<sup>91</sup> As a lawyer, she refused to follow the practice in the South of referring to African American people by their first names, not by “Mr.” or “Mrs.” like other parties and witnesses.<sup>92</sup> Her extensive civil rights work included a lawsuit she and her father brought to allow African Americans to vote in the Democratic primary.<sup>93</sup> She also joined the county Board of Education and fought against the extensive disparities in segregated schools.<sup>94</sup>

Of her time on the bench, her colleague of seventeen years, Judge Thomas Clark, said:

All of us seek approval of others—it makes us feel good. But there are times in life when the crowd may be moving in an errant direction and one must be courageous enough to take a stand against the majority. Phyllis Kravitch has always been courageous. . . . At times she has been a minority of one. In every instance she has abided by what she thought was right. She has never “gone along to get along.”<sup>95</sup>

Phyllis knew how to stand up, all five feet or so tall of her. But she also

88. *LeRoy v. City of Houston*, 592 F. Supp. 415, 420 (S.D. Tex. 1984).

89. *See The Honorable Gabrielle Kirk McDonald*, *supra* note 82.

90. Press Release, United Nations Criminal Tribunal for the Former Yugoslavia, Appointment of Judge Patricia M. Wald to succeed Judge Gabrielle Kirk McDonald in November 1999 (July 7, 1999), <https://www.icty.org/en/press/appointment-judge-patricia-m-wald-succeed-judge-gabrielle-kirk-mcdonald-november-1999> [<https://perma.cc/8DDV-L8PG>].

91. Kravitch (July 17, 2013), *supra* note 34, at 6, 8.

92. *See id.* at 10–11.

93. *Id.* at 17–18.

94. Transcript of Interview by Anne Emanuel with Phyllis A. Kravitch (Aug. 7, 2013) at 5–6 [hereinafter Kravitch (Aug. 7, 2013)], [https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578\\_KravitchP\\_Transcript.pdf](https://stacks.stanford.edu/file/druid:mn569fh4578/mn569fh4578_KravitchP_Transcript.pdf) [<https://perma.cc/42Z8-APEK>].

95. Thomas A. Clark, *A Tribute to Judge Phyllis A. Kravitch*, 13 GA. ST. U. L. REV. 345, 345 (1997).

knew how to keep her cool. For one of her first sittings on the Fifth Circuit, Phyllis traveled to New Orleans and was waiting for a cab in pouring rain outside the hotel. Two men cut in front of her and jumped into the cab, one saying he had somewhere important to be. Phyllis caught the next cab. At oral argument that morning, the men who had taken Phyllis's cab looked up and saw that she was on the bench.<sup>96</sup> Later that day during the judges' conference, one of Phyllis's colleagues said he was shocked that the first lawyers could barely speak at the argument because their brief had been written so well.<sup>97</sup> Her strength under fire, courage that never failed, and graciousness in the face of all challenges inspired me even before I met and interviewed her about her incredible life story.

*"A great public service is demanded of lawyers."*<sup>98</sup> —  
Florence Allen

Giving back. Diana Murphy came into my life one year after I was appointed. She took me under her wing during a meeting of the National Association of Women Judges and became a mentor and sponsor. She encouraged me to be active in the Federal Judges Association, an organization which she and Betty Fletcher of the Ninth Circuit helped found. They were also the FJA's first two women presidents.<sup>99</sup> The FJA, which fights for the independence of the federal judiciary and works to sustain our system of justice through civics education and public outreach, now has over 1,100 district and appellate judge members. She and Betty supported me as I rose and helped me, step by step, to become the FJA's president, the first judge of color.

Diana also said "yes" when I asked her to be one of the original board members of what is now Equal Justice Works, which has awarded more than 2,000 fellowships to recent law school graduates committed to public service.<sup>100</sup> I started the two-year fellowship program with \$2.3 million in *cy pres* funds from a case I presided over as a district judge,<sup>101</sup> and I appointed

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96. See Kravitch (Aug. 7, 2013), *supra* note 94, at 39–40.

97. See *id.* at 40.

98. See ALLEN, *supra* note 1, at 152.

99. History of the FJA, FEDERAL JUDGES ASS'N, <https://www.federaljudgesassoc.org/section/subsection.php?structureid=21> [<https://perma.cc/8MME-5A85>] (last visited Dec. 10, 2019).

100. Press Release, Equal Justice Works, Equal Justice Works Announces 2019 Class of Fellows, <https://www.equaljusticeworks.org/news/equal-justice-works-announces-2019-class-of-fellows> [<https://perma.cc/7XJK-SBDD>] (last visited Dec. 10, 2019).

101. In re Folding Carton Antitrust Litigation, No. MDL 250, 1991 WL 32867 (N.D. Ill. Mar. 6, 1991); see *Hon. Ann Claire Williams (Ret.)*, CARNEGIE, <https://www.carnegie.org/about/trustees-and-staff/ann-claire-williams> [<https://perma.cc/7YPP-RW74>] (last visited Dec. 10, 2019).

Diana as one of the first board members. Diana Murphy was always giving back. In recognition of her pathbreaking and exemplary service to the bench and community, the federal courthouse in Minneapolis was named the Diana E. Murphy United States Courthouse in 2019.<sup>102</sup> That courthouse is only the second in the country to be named solely after a woman judge. The first was the Sandra Day O'Connor U.S. Courthouse in Phoenix.

Constance Baker Motley became one of my mentors from the beginning of my time on the bench. I had read about her in magazines as a teenager and college student. I was in awe when we first met soon after I took the bench. At first, I could only call her “Judge Motley.” She also devoted her life to giving back. Connie was at the forefront of the civil rights movement, from writing the draft complaint for *Brown v. Board of Education* to representing James Meredith in his long fight to become the first African American to attend the University of Mississippi.<sup>103</sup> She inspired me to strive to practice humility and commitment to equal justice under the law throughout my career both on and off the bench, just as she did.

Inspired by impactful mentors in her own life, Connie was a generous mentor with mentees too numerous to count. Connie’s life was forever changed when Clarence Blakeslee, a wealthy white philanthropist, heard her speak as a teenager.<sup>104</sup> He paid for Connie’s college and law school education. He mentored and supported her. She could not have paid for her education without his help. She also learned from another mentor, Thurgood Marshall, to laugh off indignities. Early in her judicial career, Connie’s judicial colleagues snuck her onto a club’s male-only floor in New York City for judges’ dinner meetings by saying she was the secretary.<sup>105</sup> While it was true that as the junior judge she had to take notes at the meeting, she called it “an amusing experience” when she learned why she had been able to enter the male-only upper floors so easily. I am grateful to have learned from her when to laugh off an “ism.”

Connie was one of the first judges to support the creation of Just The Beginning—A Pipeline Organization, an organization I co-founded. It works to inspire young people of color and from other underrepresented groups to enter the legal profession through programs for middle school, high school,

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102. *U.S. Courthouse Named for Judge Diana E. Murphy*, U.S. GEN. SERVS. ADMIN. (Oct. 16, 2019), <https://www.gsa.gov/about-us/regions/welcome-to-the-great-lakes-region-5/region-5-newsroom/news-releases/us-courthouse-named-for-judge-diana-e-murphy> [<https://perma.cc/RR3L-CHM9>].

103. *See Constance Baker Motley Biography*, JRANK LAW LIBRARY, <https://biography.jrank.org/pages/2924/Motley-Constance-Baker.html> [<https://perma.cc/3QGE-UYN6>] (last visited Nov. 16, 2019).

104. *See id.*

105. MOTLEY, *supra* note 43, at 224.

and law school students.<sup>106</sup> Connie was a pillar of JTB-APO and a pillar in my life. I am fortunate to be one of the many judges, law clerks, lawyers, and friends mentored by Connie, who always gave back.

*“We don’t accomplish anything in this world alone . . . and whatever happens is the result of the whole tapestry of one’s life and all the weavings of individual threads from one to another that creates something.”*<sup>107</sup> —Justice Sandra Day O’Connor

I have been blessed throughout my legal career with an abundance of threads from people of many walks of life, races, and creeds. Two of the most vibrant threads in my tapestry are those of my parents, Joshua Marcus Williams and Dorothy Ethel Williams, who both passed at the age of ninety-two.

Every day my parents lived values I would later see in trailblazing women on the bench: dreaming big, working hard, not giving up, standing up, and giving back. Because of racial discrimination, my African American parents could not obtain work in their fields in the 1940s even though they had college degrees. My mother, who had a degree in home economics, could not get a job in Detroit as a full-time public-school teacher. She taught at a training school for delinquent children for twelve years, then served as a substitute teacher for five years. Finally, the doors opened so she could teach full time.

My dad, with degrees in political science and psychology, tried to sell insurance. But he was a poor salesman, so he drove a bus for twenty years in Detroit like so many African American educated and professional men at the time. When he applied for a supervisor position, he was told by his white boss that he could not handle it. But my father had been a staff sergeant in the United States Army and served during World War II.

He became fed up. Since he had enough money in his pension, he quit his job so he could go back to school to become a teacher. As fate would have it, we were in college together at Wayne State University. During a speech class, my professor asked me to talk about the person I admired most in life. I said, with tears rolling down my cheeks, “Daddy.” I had loved my dad’s job as a child. I relished running down the bus aisles after his shift, helping him roll coins, and seeing how handsome he looked in his uniform. But it hit me in that class: “Bus driver, college degree. College degree, bus

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106. Hon. Ann Claire Williams, CORNELL LAW SCH., <https://www.lawschool.cornell.edu/womenandjustice/About-Us/Williams.cfm> [https://perma.cc/F4TF-RQYR] (last visited Dec. 10, 2019).

107. DENNIS ABRAMS, SANDRA DAY O’CONNOR: U.S. SUPREME COURT JUSTICE 41 (2009).

driver.” How could he do it? When I got home that night, I asked him, “Daddy, why aren’t you burning down the streets of Detroit?”

He answered: “No one can take my education away. And being a bus driver is good, honest work. I wanted you and your two sisters to have a better life. So I did what I had to do.” He had a great sense of humor and added, “Besides, I used a lot of psychology with people on the bus.”

And so I have tried to live my life, doing what I had to do, standing up for justice and equality. I stand on my parents’ shoulders and the shoulders of the many that have come before me, including Florence Allen and the women judges of every race, creed, and ethnic origin who opened the courthouse doors for me and held out their hands to me and so many others.

On the 100th anniversary of the Nineteenth Amendment, the catalyst for women to enter the federal judiciary, I honor and celebrate the “first” women of the federal judiciary. They dreamed big. They worked hard. They never gave up. They stood up. And they gave back. To borrow the words of one of Florence Allen’s Sixth Circuit colleagues at her portrait unveiling, it is my hope that “[t]he heart and mind of Florence Allen,” and the hearts and minds of Amalya Kearse, Phyllis Kravitch, Consuelo Marshall, Gabrielle McDonald, Constance Baker Motley, Diana Murphy, Patricia Wald, and the many other trailblazing women judges “will flame for generations as a beacon for thousands of young women who will take their rightful places in government, in the practice of the law, and in judicial service.” The flames of the Nineteenth Amendment have changed the course of history.<sup>108</sup>

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108. ALLEN, *supra* note 1, at 148.